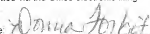


I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4).

Dated: November 23, 2009 Signature


(Donna Forbit)

Docket No.: 66729/P017US/10405597
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Mark Lesswing et al.

Application No.: 09/577,386

Confirmation No.: 3851

Filed: May 23, 2000

Art Unit: 3627

For: NOVEL METHOD AND APPARATUS FOR
REPRICING A REIMBURSEMENT CLAIM
AGAINST A CONTRACT

Examiner: V. Frencl

REQUEST FOR REHEARING UNDER 37 C.F.R. 41.52

Mail Stop Board of Patent Appeals and Interferences
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Appellant respectfully requests that the Board of Patent Appeals and Interferences grant a rehearing in appeal number 2009-003775 and modify the decision issued November 10, 2009 in light of the following.

BRIEF SUMMARY OF ACTIONS

The present application was filed May 23, 2000. A Final Office Action dated May 31, 2006 rejected the claims of the present application. The Final Office Action rejected claims 1-11 and 24-86 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,704,044 issued to Tarter et al. (hereinafter “Tarter”) in view of U.S. Patent No. 5,191,522 issued to Bosco et al. (hereinafter “Bosco”). In response, Applicant did not file an Amendment After Final Rejection, but instead filed a Notice of Appeal and then a supporting Appeal Brief.

In response to the Appeal Brief, the Examiner reopened prosecution and presented a new ground of rejection in an Office Action dated January 24, 2007. The new ground of rejection

again relies on the *Tarter* reference as teaching or suggesting certain claim elements (as in the Final Office Action of May 31, 2006), but replaces the *Bosco* reference with *Dart* reference. Applicant maintains that, for the reasons presented in the previously-filed Appeal Brief and re-presented below, *Tarter* fails to teach or suggest those claim elements for which the Examiner cites it. Thus, both the previous rejection and the new grounds of rejection remain improper for at least this reason. Also, *Dart* fails to teach or suggest the elements for which it is cited.

In response to the January 24, 2007 Office Action, Applicant did not file an Amendment After Final Rejection, but instead filed another Notice of Appeal (on April 24, 2007) with an accompanying Pre-Appeal Brief Request For Review. A panel decision was mailed May 30, 2007, which indicated that the application remains under appeal because there is at least one actual issue for appeal. In response, Applicant submitted another Appeal Brief on June 29, 2007 (hereafter "Appeal Brief") in furtherance of the Notice of Appeal filed April 24, 2007. In response to the Examiner's Answer mailed October 9, 2007, Appellant submitted a Reply Brief on December 12, 2007 (hereafter "Reply Brief").

The Board rendered its decision (hereafter "Decision") November 10, 2009, reversing the rejection of claims 1-11 and 24-59 and affirming the Examiner's rejection with respect to claims 60-86.

In affirming the Examiner's rejection of claims 60-86, the Board states that "the Examiner has met the initial burden of establishing a prima facie case of obviousness" (page 12 of the Decision). The Board further contends that Appellant's assertions (in its Appeal Brief and Reply Brief) that specific limitations found in claims 60-86 are not taught or suggested by the applied references are "general assertions" that do not rebut the Examiner's prima facie case, *see* page 12 of the Decision. The Board appears to contend that Appellant's arguments for claims 60-86 are "general assertions" that do not rebut the Examiner's prima facie case because the arguments are not as extensive as the discussion provided on pages 14-19 of the Appeal Brief regarding independent claim 1, *see* page 12 of the Decision.

As discussed further below, Appellant respectfully disagrees and submits that the arguments set forth for claims 60-86 are sufficient to rebut the prima facie case of obviousness asserted by the Examiner because Appellant's arguments identify specific limitations of the claims that are not taught or suggested by the applied references. That is, Appellant has identified specific limitations which Appellant contends the Examiner errs in asserting in his/her rejection that the cited portion(s) of the references teach or suggest. While Appellant does not repeat the lengthy discussion of what the references do disclose (as was provided in the arguments presented for claim 1 on pages 14-19 of the Appeal Brief), Appellant does clearly identify what the references fail to teach or suggest with regard to claims 60-86. This is sufficient for rebutting the Examiner's rejection particularly where, as here, the Examiner offers no further reasoning or explanation of his rejection beyond mere citation to certain portions of the references that are being relied upon.

Appellant respectfully submits that this raises a question for decision by the Board regarding whether the cited portions of the references that are relied upon by the Examiner do indeed teach or suggest the limitations of claims 60-86 that Appellant has specifically identified as not being so taught or suggested. In other words, Appellant has rebutted the Examiner's prima facie case by identifying specific limitations in claims 60-86 that are not taught or suggested by the applied references (thereby demonstrating that the Examiner erred in rejecting claims 60-86), unless the Board finds that the cited portions of the references on which the Examiner relies do indeed somehow teach or suggest those limitations. The Board's decision of November 20, 2009 does not reach this conclusion, but instead merely contends that Appellant failed to rebut the Examiner's prima facie case.

For the reasons mentioned above and discussed further herein, Appellant respectfully submits that the decision as to claims 60-86 is improper, and the Board should instead conclude that the rejection of claims 60-86 should be overturned just as the rejection of claims 1-11 and 24-59. Accordingly, Appellant respectfully submits that, for the reasons elaborated on herein, certain points are believed to have been misapprehended or overlooked by the Board, and therefore Appellant respectfully requests that a rehearing be granted under 37 C.F.R. § 41.52.

REMARKS

In affirming the Examiner's rejection of claims 60-86, the Board states that "the Examiner has met the initial burden of establishing a prima facie case of obviousness" (page 12 of the Decision). The Board further contends that Appellant's assertions (in its Appeal Brief and Reply Brief) that specific limitations found in claims 60-86 are not taught or suggested by the applied references are "general assertions" that do not rebut the Examiner's prima facie case, *see* page 12 of the Decision. The Board appears to contend that Appellant's arguments for claims 60-86 are "general assertions" that do not rebut the Examiner's prima facie case because the arguments are not as extensive as the discussion provided on pages 14-19 of the Appeal Brief regarding independent claim 1, *see* page 12 of the Decision.

As discussed further below (under Section I), Appellant respectfully disagrees and submits that the arguments set forth for claims 60-86 are sufficient to rebut the prima facie case of obviousness asserted by the Examiner because Appellant's arguments identify specific limitations of the claims that are not taught or suggested by the applied references. Also, as provided in Section II below, Appellant reiterates the arguments rebutting the rejection of claims 60-86.

I. Appellant Has Rebutted the Examiner's Rejection of Claims 60-86

The Board's decision contends that the Examiner established a prima facie case by citing to portions of the applied references and asserting that the cited portions disclose the limitations of the claims. *see* page 11 of the Decision. The Board's decision further contends that Appellant has failed to rebut the Examiner's prima facie case, *see* pages 11-12 of the Decision. Appellant respectfully disagrees. The Appellant has identified specific limitations of the claims which Appellant contends are not disclosed by the applied references, *see* pages 34-41 of the Appeal Brief and pages 11-12 of the Reply Brief.

The Board's decision notes that Appellant's arguments and discussion of the applied references in Appellant's Appeal Brief was brief as to claims 60-86, particularly as compared with the discussion provided in the Appeal Brief for the other claims (e.g., claim 1), *see* pages

11-12 of the Board's decision. However, once Appellant alleges that a specific claim limitation is not taught or suggested by the applied references (contrary to the contention by the Examiner), further discussion of what the references do teach is not determinative. While the discussion provided in the Appeal Brief for claim 1 went into greater detail concerning what the cited portions of the references that are relied upon by the Examiner do teach (in order to aid the Board's understanding of the references), repeated discussion of what the references teach is unnecessary in order to support the contention regarding what the references fail to teach.

Indeed, while the arguments presented for claim 1 include discussions of what the references do disclose, the determinative argument regarding why the rejection of claim 1 is improper is that the applied references fail to teach or suggest certain limitations of claim 1 that were specifically identified. While the discussion of what the references do disclose may have aided the Board in understanding the references, the argument concerning what they do disclose is not determinative, but rather it is what they fail to teach or suggest that traverses or rebuts the Examiner's ground of rejection.

Likewise, the arguments for claims 60-86 specifically identify certain limitations that are not taught or suggested by the applied references. While the discussion of what those references do teach was not repeated for each of these claims (for brevity) in the Appeal Brief, such a discussion is not necessary in order to rebut the Examiner's ground of rejection. For instance, Appellant need not establish what the references do teach in order to rebut the Examiner's rejection, but instead Appellant must merely identify one or more claim limitations that the references do not teach or suggest in order to rebut the Examiner's rejection.

While the Examiner maintains in the Answer that cited portions of the references do teach or suggest all limitations of claims 60-86, Appellant maintains that the cited portions of the references on which the Examiner has relied simply do not teach or suggest at least those limitations of claims 60-86 that have been specifically identified by Appellant.

Appellant further notes that the Examiner's Answer does not offer any explanation in support of how the cited portions of the references teach or suggest the claim limitations. For instance, with respect to claim 60, the Examiner's Answer merely asserts on page 24 thereof:

As per this limitation, it is noted that Tarter discloses the method comprising: generating information, stored to computer-readable medium, representing at least one term of said reimbursement contract (See Tarter Col. 1, lines 19-67 to Col. 2, line 67; Col. 13, lines 44-67 to Col. 14, line 65) and Dart discloses associating with said at least one term, information, stored to computer-readable medium (See Dart, Col.), representing at least one qualifier having a corresponding calculation method, wherein the at least one qualifier identifies at least one condition to be satisfied by a claim for reimbursement in order to trigger the corresponding calculation method (Col. 20, lines 6-68). Thus, it is readily apparent that these prior art systems utilize a method for electronically representing a reimbursement contract between an insurer and a service provider to perform their specific function.

As can be seen above, the full reasoning provided by the Examiner concerning claim 60 is to effectively recite certain language from the claim and cite to portions of the applied references. No further explanation or reasoning is advanced by the Examiner regarding how the cited portions of the references are believed to disclose the claim limitations. Thus, Appellant was provided no reasoning of the Examiner which to traverse. Instead, Appellant was merely afforded the citations to the portions of the references on which the Examiner was relying. While the Board found that the Examiner's mere citation to certain portions of the applied references with no further explanation or reasoning regarding how the cited portions are believed by the Examiner to disclose the claim limitations was sufficient to establish a prima facie case of obviousness, Appellant's rebuttal by identifying certain claim limitations that are not taught or suggested is somehow found to be insufficient. Appellant cannot reasonably be expected to provide further arguments traversing the reasoning of the Examiner where, as here, the Examiner provides no such reasoning beyond merely citing to portions of the references. Instead, Appellant rebutted the rejections by identifying for each of claims 60-86 at least one limitation that was not taught or suggested by the applied references as asserted by the Examiner.

The Board contends that "Appellants have only set forth general assertions that the Examiner has not shown how a combination of Tarter and Dart does not render obvious various

aspects of claims 60-84, without setting forth specific arguments as to why the portions of Tarter and Dart cited by the Examiner are insufficient to render obvious the subject matter of claims 60-84.” Page 11 of the Decision. However, Appellant did set forth specific arguments that identified particular claim limitations that are not taught or suggested by the references applied by the Examiner. Again, because the Examiner offered virtually no reasoning concerning how he was relying on the cited portions of the references as disclosing the claim limitations, Appellant had no further argument for traversing the rejection beyond identifying specific claim limitations that the references simply do not teach or suggest.

As reiterated below, Appellant maintains that the applied references do not teach or suggest one or more limitations of claims 60-86. Further, as provided below, much of the applied reference teachings was explained in the Appeal Brief’s arguments for claims 1, 6-8, and 40, *see* pages 14-19, 23-25, and 30-32 of the Appeal Brief. However, while reference may be made to those portions of the Appeal Brief for a discussion of what the references do disclose, Appellant rebuts the Examiner’s rejection of claims 60-86 by asserting that irrespective of what the references do disclose they do not teach or suggest specific limitations that Appellant has identified.

Thus, a decision of the Board is needed to resolve as to whether those cited portions of the references that are relied upon by the Examiner do indeed teach or suggest the limitations of claims 60-86 that Appellant has specifically identified as not being so taught or suggested. The Board’s decision of November 20, 2009 does not reach this conclusion, but instead merely contends that Appellant failed to rebut the Examiner’s *prima facie* case. Further, as discussed above, the Examiner’s Answer does not provide reasoning in support of its contention that the cited portions of the references disclose the claim limitations, but instead the Examiner’s Answer merely offers unexplained citations to portions of the applied references. Also, the Board’s agreement in its Decision with Appellant that the applied references fail to teach or suggest other similar limitations found in claims 1-11 and 24-59 appears to suggest that the limitations identified by Appellant for claims 60-86 are likewise not taught or suggested by the applied references, as discussed further below.

II. Reiteration that the Applied References Fail to Teach or Suggest All Limitations of Claims 60-86, and therefore the Rejections of Claims 60-86 Should Also Be Overturned

For the reasons reiterated below, Appellant maintains that the applied combination of *Tarter* and *Dart* does not teach or suggest one or more limitations of claims 60-86.

Independent Claim 60

Independent claim 60 recites, in part, “associating, with said at least one term, information, stored to computer-readable medium, representing at least one qualifier having a corresponding calculation method, wherein the at least one qualifier identifies at least one condition to be satisfied by a claim for reimbursement in order to trigger the corresponding calculation method.” The applied combination of *Tarter* and *Dart* fails to teach or suggest at least this element of claim 60.

The Examiner’s Answer relies upon *Dart* as disclosing this limitation, *see* page 24 of the Examiner’s Answer. A discussion of what *Dart* discloses can be found in the Appeal Brief’s discussion of claims 1 and 40 on pages 14-19 and 30-32. However, *Dart* does not teach or suggest the above-identified limitation of claim 60 as asserted by Appellant in the Appeal Brief.

Therefore, Appellant respectfully requests that this rejection of claim 60 be overturned.

Dependent Claim 61

Dependent claim 61 depends from claim 60, and thus inherits all of the limitations of claim 60 in addition to its own supplied limitations. It is respectfully submitted that dependent claim 61 is allowable at least because of its dependence from claim 60 for the reasons discussed above.

Claim 61 further recites:

wherein the generated information represents a plurality of terms of said reimbursement contract, further comprising:

associating, with each of said plurality of terms, information, stored to computer-readable medium, representing a priority of such term relative to the other terms.

The applied combination of *Tarter* and *Dart* further fails to teach or suggest these further elements of claim 61. That is, neither *Tarter* nor *Dart* teaches or suggests associating with each term information representing a priority of the term relative to other terms.

The Examiner's Answer relies upon *Dart* as disclosing this limitation, *see* pages 24-25 of the Examiner's Answer. A discussion of what *Dart* discloses can be found in the Appeal Brief's discussion of claims 1 and 40 on pages 14-19 and 30-32. However, *Dart* does not teach or suggest the above-identified limitation of claim 61 as asserted by Appellant in the Appeal Brief.

Thus, for this further reason, the rejection of claim 61 should be overturned.

Dependent Claim 62

Dependent claim 62 depends from claim 61, and thus inherits all of the limitations of claim 61 in addition to its own supplied limitations. It is respectfully submitted that dependent claim 62 is allowable at least because of its dependence from claim 61 for the reasons discussed above.

Claim 62 further recites:

wherein if the corresponding at least one qualifier for multiple ones of the plurality of terms is satisfied by said claim, the priority information is usable to determine the term having the highest priority.

The applied combination of *Tarter* and *Dart* further fails to teach or suggest this further element of claim 62. For instance, neither *Tarter* nor *Dart* teaches or suggests using the priority information to determine one of a plurality of terms that is satisfied by a claim which has the highest priority.

The Examiner's Answer relies upon *Dart* as disclosing this limitation, *see* page 25 of the Examiner's Answer. A discussion of what *Dart* discloses can be found in the Appeal Brief's discussion of claims 1 and 40 on pages 14-19 and 30-32. However, *Dart* does not teach or suggest the above-identified limitation of claim 62 as asserted by Appellant in the Appeal Brief.

Thus, for this further reason, the rejection of claim 62 should be overturned.

Dependent Claim 63

Dependent claim 63 depends from claim 62, and thus inherits all of the limitations of claim 62 in addition to its own supplied limitations. It is respectfully submitted that dependent claim 63 is allowable at least because of its dependence from claim 62 for the reasons discussed above.

Claim 63 further recites:

wherein the corresponding calculation method for the satisfied at least one qualifier of the term determined to have the highest priority is triggered for computing a reimbursement amount for the claim.

The applied combination of *Tarter* and *Dart* further fails to teach or suggest this further element of claim 63. For instance, neither *Tarter* nor *Dart* teaches or suggests triggering a calculation method for a satisfied term that is determined to have the highest priority in order to compute a reimbursement amount of a claim.

The Examiner's Answer relies upon *Dart* as disclosing this limitation, *see* page 25 of the Examiner's Answer. A discussion of what *Dart* discloses can be found in the Appeal Brief's discussion of claims 1 and 40 on pages 14-19 and 30-32. However, *Dart* does not teach or suggest the above-identified limitation of claim 63 as asserted by Appellant in the Appeal Brief.

Thus, for this further reason, the rejection of claim 63 should be overturned.

Dependent Claim 64

Dependent claim 64 depends from claim 60, and thus inherits all of the limitations of claim 60 in addition to its own supplied limitations. It is respectfully submitted that dependent claim 64 is allowable at least because of its dependence from claim 60 for the reasons discussed above.

Claim 64 further recites:

The method of claim 60 comprising:
associating, with said at least one term, information, stored to computer-readable medium, representing a plurality of different qualifiers that each have a different calculation method associated therewith, wherein each of the different qualifiers identifies a different condition to be satisfied by a claim for reimbursement in order to trigger its respective associated calculation method.

The applied combination of *Tarter* and *Dart* further fails to teach or suggest this further element of claim 64. For instance, neither *Tarter* nor *Dart* teaches or suggests associating with a term information representing a plurality of different qualifiers that each have a different calculation method associated therewith, as recited by claim 64.

The Examiner's Answer relies upon *Dart* as disclosing this limitation, *see* page 25 of the Examiner's Answer. A discussion of what *Dart* discloses can be found in the Appeal Brief's discussion of claims 1 and 40 on pages 14-19 and 30-32. However, *Dart* does not teach or suggest the above-identified limitation of claim 64 as asserted by Appellant in the Appeal Brief.

Thus, for this further reason, the rejection of claim 64 should be overturned.

Independent Claim 65 and Dependent Claims 66-68 and 70

Independent claim 65 recites, in part, "code for associating with the at least one term a qualification having a corresponding calculation method, wherein the qualification identifies when a received claim for reimbursement qualifies for reimbursement, under the term with

which the qualification is associated, according to the corresponding calculation method.” The applied combination of *Tarter* and *Dart* fails to teach or suggest at least this element of claim 65.

The Examiner’s Answer relies upon *Dart* as disclosing this limitation, *see* pages 25-26 of the Examiner’s Answer. A discussion of what *Dart* discloses can be found in the Appeal Brief’s discussion of claims 1 and 40 on pages 14-19 and 30-32. However, *Dart* does not teach or suggest the above-identified limitation of claim 65 as asserted by Appellant in the Appeal Brief.

Therefore, Appellant respectfully requests that this rejection of claim 65 be overturned.

Claims 66-68 and 70 each depend from independent claim 65, and are thus likewise believed to be allowable at least based on their dependency from claim 65 for the reasons discussed above. Accordingly, Appellant respectfully requests that the rejection of claims 66-68 and 70 also be overturned.

Dependent Claim 69

Dependent claim 69 depends indirectly from claim 65, and thus inherits all of the limitations of claim 65 in addition to its own supplied limitations. It is respectfully submitted that dependent claim 69 is allowable at least because of its dependence from claim 65 for the reasons discussed above.

Claim 69 further recites:

The computer-executable software code of claim 68 further comprising:
code for receiving information about a claim submitted for reimbursement;
code for determining whether said first term and its associated first qualification are satisfied by said claim;
code for determining whether said first term and its associated second qualification are satisfied by said claim;
code for computing a reimbursement amount for said claim according to the first calculation method if said claim satisfies said first term and its associated first qualification; and
code for computing a reimbursement amount for said claim according to

the second calculation method if said claim satisfies said first term and its associated second qualification.

The applied combination of *Tarter* and *Dart* further fails to teach or suggest these further elements of claim 69. For instance, neither *Tarter* nor *Dart* teaches or suggests first and second qualifications, code for determining whether a term and its associated first or second qualification are satisfied by a claim, or code for computing a reimbursement amount according to a calculation method corresponding to a satisfied one of the first and second qualifications. The Examiner's Answer relies upon *Dart* as disclosing these limitations, *see* page 27 of the Examiner's Answer. A discussion of what *Dart* discloses can be found in the Appeal Brief's discussion of claims 1 and 40 on pages 14-19 and 30-32. However, *Dart* does not teach or suggest the above-identified limitations of claim 69 as asserted by Appellant in the Appeal Brief.

Thus, for this further reason, the rejection of claim 69 should be overturned.

Independent Claim 71 and Dependent Claims 72-78

Independent claim 71 recites, in part, "code for generating a user interface providing a phrase describing a term of a contract for reimbursement, wherein said phrase includes at least one input field for receiving input from a user". The applied combination of *Tarter* and *Dart* fails to teach or suggest at least this element of claim 71.

The Examiner's Answer relies upon *Tarter* as disclosing this limitation, *see* page 28 of the Examiner's Answer. A discussion of what *Tarter* discloses can be found in the Appeal Brief's discussion of claims 1 and 6-8 on pages 14-19 and 23-25. However, *Tarter* does not teach or suggest the above-identified limitation of claim 71 as asserted by Appellant in the Appeal Brief.

Therefore, Appellant respectfully requests that this rejection of claim 71 be withdrawn.

Claims 72-78 each depend from independent claim 71, and are thus likewise believed to be allowable at least based on their dependency from claim 71 for the reasons discussed above.

Accordingly, Appellant respectfully requests that the rejection of claims 72-78 also be overturned.

Independent Claim 79 and Dependent Claim 81

Independent claim 79 recites, in part, “code for generating output presenting at least one phrase describing the terms of the defined contract for reimbursement.” The applied combination of *Tarter* and *Dart* fails to teach or suggest at least this element of independent claim 79.

The Examiner’s Answer relies upon *Dart* as disclosing this limitation, *see* page 30 of the Examiner’s Answer. A discussion of what *Dart* discloses can be found in the Appeal Brief’s discussion of claims 1 and 40 on pages 14-19 and 30-32. However, *Dart* does not teach or suggest the above-identified limitation of claim 79 as asserted by Appellant in the Appeal Brief.

Therefore, Appellant respectfully requests that this rejection of claim 79 be overturned.

Claim 81 depends from independent claim 79, and is thus likewise believed to be allowable at least based on its dependency from claim 79 for the reasons discussed above. Accordingly, Appellant respectfully requests that the rejection of claim 81 also be overturned.

Dependent Claim 80

Dependent claim 80 depends from claim 79, and thus inherits all of the limitations of claim 79 in addition to its own supplied limitations. It is respectfully submitted that dependent claim 80 is allowable at least because of its dependence from claim 79 for the reasons discussed above.

Claim 80 further recites:

The computer-executable software code of claim 79 wherein the code for defining said terms of said contract comprise:

code for associating, with each of the terms, a qualification having a corresponding calculation method, wherein the qualification identifies when a received claim for reimbursement qualifies for reimbursement, under the term with which the qualification is associated, according to the corresponding calculation method.

The applied combination of *Tarter* and *Dart* further fails to teach or suggest this further element of claim 80. For instance, neither *Tarter* nor *Dart* teaches or suggests associating with each term a qualification having a corresponding calculation method, as recited by claim 80.

The Examiner's Answer relies upon *Dart* as disclosing this limitation, *see* page 31 of the Examiner's Answer. A discussion of what *Dart* discloses can be found in the Appeal Brief's discussion of claims 1 and 40 on pages 14-19 and 30-32. However, *Dart* does not teach or suggest the above-identified limitation of claim 80 as asserted by Appellant in the Appeal Brief.

Thus, for this further reason, the rejection of claim 80 should be overturned.

Independent Claim 82 and Dependent Claim 83

Independent claim 82 recites, in part, "for each of the at least one term, receiving, by said processor-based device, input identifying at least one qualification that specifies at least one condition to be satisfied in a claim for the claim to qualify for reimbursement according to the

corresponding contract term". The applied combination of *Tarter* and *Dart* fails to teach or suggest at least this element of independent claim 82.

The Examiner's Answer relies upon *Tarter* as disclosing this limitation, *see* page 31 of the Examiner's Answer. A discussion of what *Tarter* discloses can be found in the Appeal Brief's discussion of claims 1 and 6-8 on pages 14-19 and 23-25. However, *Tarter* does not teach or suggest the above-identified limitation of claim 82 as asserted by Appellant in the Appeal Brief.

Therefore, Appellant respectfully requests that this rejection of claim 82 be overturned.

Claim 83 depends from independent claim 82, and is thus likewise believed to be allowable at least based on its dependency from claim 82 for the reasons discussed above. Accordingly, Appellant respectfully requests that the rejection of claim 83 also be overturned.

Independent Claim 84 and Dependent Claims 85-86

Independent claim 84 recites, in part, "defining a reimbursement contract in computer-executable program code stored to a computer-readable medium, where said definition of said reimbursement contract includes information associating at least one term of the contract with at least one qualifier having a corresponding calculation method". The applied combination of *Tarter* and *Dart* fails to teach or suggest at least this element of independent claim 84.

The Examiner's Answer relies upon *Tarter* as disclosing this limitation, *see* pages 32-33 of the Examiner's Answer. A discussion of what *Tarter* discloses can be found in the Appeal Brief's discussion of claims 1 and 6-8 on pages 14-19 and 23-25. However, *Tarter* does not teach or suggest the above-identified limitation of claim 84 as asserted by Appellant in the Appeal Brief.

Therefore, Appellant respectfully requests that this rejection of claim 84 be overturned.

Claims 85-86 each depend from independent claim 84, and are thus likewise believed to be allowable at least based on their dependency from claim 84 for the reasons discussed above. Accordingly, Appellant respectfully requests that the rejection of claims 85-86 also be overturned.

Conclusion

In light of the foregoing, Appellant respectfully requests that rehearing be granted under 37 C.F.R. § 41.52 and that the Board reverse the rejection of claims 60-86 based upon Appellant having rebutted the stated ground of rejection.

Appellant believes no fee is due with this request for rehearing. However, if a fee is due, please charge our Deposit Account No. 50-3948, under Order No. 66729/P017US/10405597 from which the undersigned is authorized to draw.

Dated: November 23, 2009

Respectfully submitted,

By 
Jody C. Bishop
Registration No.: 44,034
FULBRIGHT & JAWORSKI L.L.P.
2200 Ross Avenue, Suite 2800
Dallas, Texas 75201-2784
(214) 855-8007
(214) 855-8200 (Fax)
Attorney for Applicant